

**STAFF ANALYSIS OF THE PETITION
FOR APPROVAL (ADOPTION) OF
MORE RESTRICTIVE LOCAL STANDARDS
AMENDED BY**

**Local Law No. 7 of 2022,
Chapter 74 of the Code of the Town of Farmington entitled "The
Administration and Enforcement of the New York State Uniform Fire
Prevention and Building Code and State Energy Conservation
Construction Code"**

Located in the

**Town of Farmington
Ontario County, New York**



**New York State Department of State
Division of Building Standards and Codes
Code Development Unit**

**One Commerce Plaza
99 Washington Avenue, Suite 1160
Albany, NY 12231-0001**

Part I: Executive Summary

Introduction

Executive Law § 379 authorizes the legislative body of a local government (city, town, or village) to enact or adopt local laws or ordinances that impose standards for construction that are more restrictive than the standards imposed by the Uniform Code. If a local government enacts or adopts a local law or ordinance establishing such a standard (herein referred to as a More Restrictive Local Standard, or MRLS), the Chief Elective Officer of the local government must, within 30 days of enactment of the local law or adoption of the ordinance, notify the State Fire Prevention and Building Code Council (the Code Council) of the enactment or adoption and petition the Code Council for a determination that (1) the standards imposed by the local law or ordinance are, in fact, higher and more restrictive than the Uniform Code, (2) the standards imposed by the local law or ordinance are reasonably necessary because of special conditions prevailing within the local government, and (3) the standards imposed by the local law or ordinance conform with accepted engineering and fire prevention practices and the purposes of Article 18 of the Executive Law. If the Code Council determines that the local standards for construction satisfy these requirements, the Code Council will approve (or “adopt”) the local standards.

The Council has the power to (1) limit the duration of the standard, (2) impose conditions in connection with the adoption, and (3) terminate the standard at such times that the Council deems necessary.

Town of Farmington Notice and Petition

The Division of Building Standards and Codes (hereinafter referred to as the “Division”) has received a Notice and Petition from the Town of Farmington (hereinafter referred to as the “Town”) asking the Code Council to approve the more restrictive standards for construction imposed by Local Law No. 7 of 2022 (hereinafter referred to as “the Local Law”). The Local Law titled “The Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code and State Energy Conservation Construction Code” replaces in its entirety Chapter 74 of the Code of the Town of Farmington (hereinafter referred to as “the Town Code”).¹ Specifically, § 74-4(d) and (e) of the Town Code, as amended by the Local Law, requires all new buildings and all existing buildings undergoing an alteration which affects more than 25% of the square footage of the building, with some exceptions, to be equipped with a sprinkler system. The Local Law also requires addressable fire alarm systems to be installed in all new buildings, with some exceptions. In addition, the Local Law specifies the location and labeling requirements for fire department connections and requires security gates to be equipped with emergency fire department access.

More detailed summaries and staff findings are provided below.

Local Law (Standards for Construction; refer to Part II B of this Analysis for details)

The Town Code provisions, as amended by the Local Law, provide as follows:

§ 74-4. (d) Fire prevention requirements. The following fire prevention requirements shall be adhered to:

¹ The majority of Local Law No. 7 of 2022 appears to be the Town’s updated code enforcement program as required by 19 NYCRR Part 1203. This staff analysis is limited to the review of the more restrictive standards for construction imposed by Local Law No. 7 of 2022 and shall not be construed as review and/or analysis of the other provisions of such Local Law.

- (1) *Sprinkler system. All new buildings, except those buildings set forth below herein, shall be required to have a National Fire Prevention Association (NFPA) compliant fire suppression sprinkler system installed and operational which would include a five-inch Stortz-type Fire Department connection (FDC);*
- (2) *Fire Department connections (FDC). Location and signage. Location of FDCs shall be at the nearest point of access from the main entrance driveway used by Fire Department apparatus or in a location approved by the CEO or Fire Marshal. Signs shall be of an approved size, minimum letter height of six inches, and sign material with the retro-reflective red background and retro-reflective white lettering "FDC" or "FIRE DEPARTMENT CONNECTION." The FDC sign background and lettering shall be of a contrasting color to the exterior color of the building.*
- (3) *Addressable Fire Alarm system. All new buildings, except those buildings set forth below herein, shall be required to have a National Fire Prevention Association (NFPA) compliant addressable fire alarm system installed and operational.*
- (4) *Emergency access: key box. The key box shall be of an approved type listed in accordance with UL 1037 and shall contain keys to gain necessary access to the property or building as required by the CEO or the Fire Marshal.*
- (5) *Emergency access: security gates. All site security gates shall be equipped with a means of opening by Fire Department personnel for emergency purposes approved by the CEO or Fire Marshal. Any such device once opened and no longer usable shall be replaced within 30 business days of the event.*
- (6) *Alterations. Whenever a proposed alteration, addition or repair to an existing building exceeds 25% of the square footage of that building, the existing building, along with the proposed alteration, addition, or repair, shall be required to have an approved fire suppression sprinkler system installed and operational.*

(e) Fire prevention exemptions. The following exemptions from the fire prevention requirements set forth above in § 74-4. (d) include:

- (1) *Single-family dwellings, duplexes and townhouses, as well as related accessory buildings (i.e., storage buildings, detached garages, etc.);*
- (2) *Any farm-related structure used as part of active agricultural operations as determined by Ag and Markets. These determinations made under this subsection shall be reviewed by the CEO or Fire Marshal.*
- (3) *Accessory buildings having less than 6,000 square feet of total buildable area, provided further that such building(s):*
 - (a) *Are not higher than one story; and*
 - (b) *Are located at least 100 feet from any other structure; and*
 - (c) *Contain no fuel gas or heat sources.*
- (4) *Such accessory buildings shall be identified by a building-mounted sign that reads "non-sprinklered building," having contrasting lettering to the color of the building's exterior siding and at least four inches in height and located near the main entrance to said building.*

- (5) *In spaces where the discharge of water would be hazardous or damaging to equipment or occupants, a fire suppression sprinkler system shall not be required to be installed. Such a determination shall be made, in writing, by the CEO or Fire Marshal.*

Special Conditions Summary (Refer to Part II C of this Analysis for details)

Provided below are the special conditions identified by the Town in Exhibit C of Notice and Petition for the Town Code provisions, as amended by the Local Law:

- *“In 2000, State Route 332 was widened from two lanes to a four-lane highway... [which] divided the community's residential neighborhoods and created restrictions for east/west traffic movements... Volunteer Fire Fighters responding to fire calls are still dealing with delays entering into the more heavy volumes of north/south traffic movements along State Route 332. Depending upon the time of day, response times from the volunteers' homes to Station #2 can vary by up to ten minutes.”*
- *“The Town of Farmington has, during the past Census reporting period (2011- 2020), experienced some of the fastest growth that occurred within Western and Central New York State. During this past ten-year census period, Ontario County's population increased by 4.2%... The Town of Farmington's population during this period, however, increased by 16.5%... With this increase in population the Town has also seen a large increase in requests for building permits for commercial and industrial business which has added concerns from our volunteer fire departments.”*
- *“While the community continues to experience development in all of its sectors, the number of volunteer fire fighters continues to go in the opposite direction (downward).”*

Compliance Summary

The following summarizes the Division's staff analysis of the Notice and Petition in relation to the requirements of Executive Law §379. Refer to Part II of this analysis for details.

- Part II A Executive Law §379(1) Submission Requirements: The Town's Notice and Petition was **timely**, as it was submitted by the Town Supervisor on December 14, 2022, 22 days after the adoption of the Local Law on November 22, 2022.
- Part II B Analysis and Comparison to the Uniform Code (Executive Law §379(1) & §379(2)): The standards imposed by §74-4(d) and (e) of the Town Code has some construction standards which are **more** restrictive, some which are **less** restrictive, and some that are equal to the Uniform Code.
- Part II C Prevailing Special Conditions: The Code Council must determine if the information provided by the Town substantiates the claim that there are special conditions prevailing in the Town that make the more restrictive construction standards imposed by §74-4(d) and (e) of the Town Code reasonably necessary.

- Part II D Conformance to Accepted Engineering and Fire Prevention Practices (Executive Law § 379(2)): The standards imposed by §74-4 of the Town Code, as amended by the Local Law, **do not** appear to conform to accepted engineering and fire prevention practices.
- Part II E Conformance with the Purposes of Article 18 (Executive Law §379(2)): The standards imposed by §74-4 of the Town Code **do not** appear to conform to the purpose of Article 18.

Although the Code Council is not required to determine if the proposed variance process is compliant with Executive Law or the Uniform Code, it should be noted that the Town has established a process whereby an aggrieved party may request a variance from the construction standards as amended by the Local Law.

Staff's Findings and Recommendations

The Division's staff recommends that the Code Council find and determine the standards for construction imposed by §74-4 of the Town Code, as amended by the Local Law:

- are a combination of **more restrictive** and **less restrictive** provisions than those of the Uniform Code;
- are (or are not) reasonably necessary due to special conditions prevailing in the Village;
- **do not conform** to accepted engineering and fire prevention practices; and
- **do not conform** to the purposes of Article 18 of the Executive Law.

If the Code Council makes the aforementioned findings and determinations, **or** the Code Council finds that the Local Law's more restrictive standards for construction are not reasonably necessary due to special conditions prevailing in the Village, then the Code Council should **disapprove** the standards for construction imposed by §74-4 of the Town Code, as amended by the Local Law.

Part II: Detailed Analysis of the Petition for a MRLS

A. Submission Requirements

The Division's staff conducted a detailed analysis of the petition for a MRLS. For ease of use, the checklist designations in the following Administrative Completeness Checklist correspond to the remaining sections of this analysis.

Administrative Completeness Checklist (S = Submitted, NS = Not Submitted)

S NS Analysis Section

- ☒ ☐ **(B)** A detailed description of the standards for construction imposed by the Local Law or Ordinance, the corresponding standards imposed by the Uniform Code, and the reason the Municipality believes the standards for construction imposed by the Local Law or Ordinance are more restrictive than the standards imposed by the Uniform Code.
- ☒ ☐ **(C)** A detailed description of the special conditions prevailing within the Municipality, including documentation verifying its existence, and the reasons why the Petitioner and the Municipality believe that the special conditions make the more restrictive standards imposed by the Local Law or Ordinance reasonably necessary.

- ☒ ☐ **(D)** A detailed description of the reasons why the Petitioner and the Municipality believe that the standards for construction imposed by the Local Law or Ordinance conform with accepted engineering and fire prevention practices.
- ☒ ☐ **(E)** A detailed description of the reasons why the Petitioner and the Municipality believe that such standards for construction conform with the purposes of Article 18.
- ☒ ☐ **(F)** Documentation regarding procedures for an aggrieved party to request a variance at the local level from the construction standards imposed by the Local Law or Ordinance².

Executive Law § 379(1) Submission Requirements

Petition submitted by the Chief Executive Officer, or if there be none, the Chairman of the Legislative Body? ☒ Yes ☐ No

Name: Peter Ingalsbe ☒ CEO ☐ Chairman

Date of adoption of the Local Law: **November 22, 2022**

Date the Petition was received by the Division of Buildings Standards and Codes: **December 14, 2022**

Petition submitted within 30 days of adoption of the local law? ☒ Yes ☐ No **(22 Days)**

Introduction

The Town of Farmington enacted a local law that requires, with some exceptions, all new buildings, and all alterations in buildings which exceed 25% of the square footage of the building, to be equipped with sprinkler systems and addressable fire alarm systems. The Local Law also specifies the location and labeling requirements for fire department connections and requires security gates to be equipped with emergency fire department access.

B. Analysis and Comparison to the Uniform Code (Executive Law §379(1) & §379(2))

In the petition for an MRLS, the Town specified §74-4(d) and §74-4(e) as the more restrictive standards for construction imposed by the Local Law. The Department reviewed the entire Local Law and found this determination to be correct. As such, only these provisions are analyzed in detail below.

§74-4(d)(1) requires that *“all new buildings, except those buildings set forth below herein, shall be required to have a National Fire Prevention Association (NFPA) compliant fire suppression sprinkler system installed and operational.”* The Uniform Code does not require sprinklers to be installed in all new buildings, so this provision would require sprinkler systems to be installed in buildings which are not, under the Uniform Code, required to have sprinklers. However, section 903.3.1.1 of the 2020 Building Code of New York State (2020 BCNYS) requires that *“where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with this section, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Sections 903.3.1.1.1 and 903.3.1.1.2.”* The provisions of the Local Law do not require automatic sprinkler systems, nor do they

² The Variance process as established by the Municipality is included in Chapter 74 of the Code of the Town of Farmington (Exhibit F).

require compliance with NFPA 13. NFPA produces multiple sprinkler standards (NFPA 13, 13R, and 13D), and these standards provide varying levels of protection to life and property. As written, the Local Law would allow sprinkler systems meeting any NFPA standard (and any edition of said standards) to be installed in any new building, which could be less restrictive than the provisions of the Uniform Code. In addition, all exceptions must be considered in order to evaluate whether this provision is more or less restrictive. The exceptions to this requirement are listed in §74-4(e) and are evaluated below.

- **Without considering the exceptions in §74-4(e), §74-4(d)(1) of the Town Code appears to be less restrictive than the Uniform Code.**

§74-4(d)(2) requires that fire department connections (FDCs) *“shall be at the nearest point of access from the main entrance driveway used by Fire Department apparatus or in a location approved by the CEO or Fire Marshal.”* Per section 912.2.1 of the 2020 Fire Code of New York State (2020 FCNYS), *“Fire department connections shall be located on the street side of buildings or facing approved fire apparatus access roads, fully visible and recognizable from the street, fire apparatus access road or nearest point of fire department vehicle access or as otherwise approved by the fire code official.”* While the Local Law requirements are not identical to those stated in the Uniform Code, both require that all FDC locations be approved by the fire code official, and thus this provision is equally restrictive to that of the Uniform Code.

In addition, this section requires that *“signs shall be of an approved size, minimum letter height of six inches, and sign material with the retro-reflective red background and retro-reflective white lettering ‘FDC’ or ‘FIRE DEPARTMENT CONNECTION.’”* This requirement is less restrictive than the Uniform Code because the section 912.5 of the 2020 FCNYS requires that *“a metal sign with raised letters not less than 1 inch (25 mm) in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable.”* The Local Law requirement of 6” letter height is more restrictive than the Uniform Code requirement (1” height). However, the Local Law does not require signage indicating if the connection serves automatic sprinklers, standpipes, or fire pump connections, which is less restrictive than the Uniform Code. Since the Uniform Code does not have requirements regarding the background and letter colors of the sign, the Local Law provisions for colors are more restrictive than the Uniform Code. While the Local Law requirements regarding letter size and sign color are more restrictive than the Uniform Code, the lack of provisions requiring additional connection information is less restrictive than the Uniform Code. Since portions of §74-4(d)(2) are less restrictive than the Uniform Code, such Local Law provisions are overall found to be less restrictive than the Uniform Code.

- **Without considering the exceptions in §74-4(e), §74-4(d)(2) of the Town Code appears to be less restrictive than the Uniform Code.**

§74-4(d)(3) requires that *“all new buildings, except those buildings set forth below herein, shall be required to have [an] NFPA compliant addressable fire alarm system installed and operational.”* The Local Law does not specify which NFPA standard (or edition of said standard) is to be used to determine compliance. Section 907.2 of the 2020 FCNYS requires that *“An approved fire alarm system installed in accordance with the provisions of this code and NFPA 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23 and provide occupant notification in accordance with Section 907.5.”* The 2016 edition of NFPA 72 is currently incorporated by reference in the 2020 FCNYS. Since the Local Law does not specify which NFPA standard is to be used (or which edition), it could be interpreted to allow fire alarm systems which comply with versions of NFPA 72 which are older than that referenced by the Uniform Code, or systems which comply with a different standard entirely.

- **Without considering the exceptions in §74-4(e), §74-4(d)(3) of the Town Code appears to be less restrictive than the Uniform Code.**

§74-4(d)(4) requires that *“the key box shall be of an approved type listed in accordance with UL 1037 and shall contain keys to gain necessary access to the property or building as required by the CEO or the Fire Marshal.”* Section 506 of the 2020 FCNYS contains the same requirements for key boxes, making this Local Law an unnecessary duplication.

- **Without considering the exceptions in §74-4(e), §74-4(d)(4) of the Town Code appears to be neither more nor less restrictive than the Uniform Code.**

§74-4(d)(5) requires that *“All site security gates shall be equipped with a means of opening by Fire Department personnel for emergency purposes approved by the CEO or Fire Marshal.”* Sections 503.5.1 and 503.6 of the 2020 FCNYS require compliance with UL 325 and ASTM F2200 for site security gates, which are not mentioned in the Local Law. While requirement for approval by CEO or Fire Marshall should ensure that gates meet the Uniform Code requirements, the Local Law could be interpreted to allow security gates which do not meet the Uniform Code requirements. As such, this provision appears to be less restrictive than the Uniform Code.

- **§74-4(d)(5) of the Town Code appears to be less restrictive as the Uniform Code.**

§74-4(d)(6) requires that, *“whenever a proposed alteration, addition or repair to an existing building exceeds 25% of the square footage of that building, the existing building, along with the proposed alteration, addition, or repair, shall be required to have an approved fire suppression sprinkler system installed and operational.”* This requirement of the Local Law does not specify a standard to which the sprinkler system must be designed, or even that such system be automatically activated. As such, this provision could be interpreted to allow sprinkler systems which do not meet Uniform Code requirements, in buildings which the Uniform Code requires to be sprinklered, which would be less restrictive than the Uniform Code. Additionally, some alterations to existing buildings which do not exceed 25% of the square footage of the building may still require the installation of automatic sprinkler systems per the Uniform Code.

- **§74-4(d)(6) of the Town Code appears to be less restrictive than the Uniform Code.**

§74-4(e)(1) exempts *“single-family dwellings, duplexes and townhouses, as well as related accessory buildings (i.e., storage buildings, detached garages, etc.)”* from the sprinkler requirements. However, per section R313 of the 2020 Residential Code of New York State (2020 RCNYS), *“an automatic residential fire sprinkler system shall be installed in townhouses...[and] one- and two-family dwellings where such dwellings have a height of three stories above grade plane.”* For residential buildings which do not meet the exception allowing the use of the 2020 RCNYS³, the 2020 Building Code of New York State (2020 BCNYS), section 903.2.8, requires that *“An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.”* The Local Law exception does not distinguish between dwellings with one or two stories and dwellings with three or more stories above grade plane, and as such, could permit the installation of a one-family dwelling with a height of three

³ The exception requirements allowing use of the 2020 RCNYS are listed in section 101.2 of the 2020 BCNYS.

stories above grade plane without automatic sprinklers, a situation which is not permitted by the Uniform Code. As such, this exception is less restrictive than the Uniform Code.

- **§74-4(e)(1) of the Town Code appears to be less restrictive than the Uniform Code.**

§74-4(e)(2) exempts *“any farm-related structure used as part of active agricultural operations as determined by Ag and Markets.”* This description is very broad and is likely to include buildings which may or may not be classified as an “agricultural building” as defined in the Uniform Code. The 2020 BCNYS defines an agricultural building as *“a structure designed and constructed to house farm equipment, farm implements, poultry, livestock, hay, grain, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.”* The exemption in the Local Law could include processing and packaging buildings, which are not considered to be agricultural buildings under the Uniform Code and may be required by the Uniform Code to have sprinklers and/or fire alarm systems, which would make this exception potentially less restrictive than the Uniform Code.

- **§74-4(e)(2) of the Town Code appears to be less restrictive than the Uniform Code.**

§74-4(e)(3) exempts *“Accessory buildings having less than 6,000 square feet of total buildable area, provided further that such building(s): (a) are not higher than one story; (b) are located at least 100 feet from any other structure; and (c) contain no fuel gas or heat sources.”* While most buildings which would fall under this exception are not required by the Uniform Code to have automatic sprinklers, this exception is very broad, and could be interpreted to include, a “wedding barn” (A-2 occupancy) which serves over 100 people, or a mercantile building with high-piled storage, both of which would be required by the Uniform Code to have automatic sprinkler systems.

- **§74-4(e)(3) of the Town Code appears to be less restrictive than the Uniform Code.**

§74-4(e)(4) states that *“such accessory buildings shall be identified by a building-mounted sign that reads “non-sprinklered building,” having contrasting lettering to the color of the building’s exterior siding and at least four inches in height and located near the main entrance to said building.”* It is unclear whether this provision refers to accessory buildings as specified in §74-4(e)(3), or whether this provision is intended to refer to all accessory buildings. However, the Uniform Code does not require signage as specified in the Local Law, and as such this provision is more restrictive than the Uniform Code.

- **§74-4(e)(4) of the Town Code appears to be more restrictive than the Uniform Code.**

§74-4(e)(5) states *“in spaces where the discharge of water would be hazardous or damaging to equipment or occupants, a fire suppression sprinkler system shall not be required to be installed. Such a determination shall be made, in writing, by the CEO or Fire Marshal.”* Per the 2020 FCNYS, section 903.3.1.1.1, exceptions to the requirements for automatic sprinklers are allowed for *“room[s] where the application of water, or flame and water, constitutes a serious life or fire hazard”* only if *“such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion.”* For buildings which are required, under the Uniform Code, to be sprinklered, the lack of provision for automatic fire detection systems in the Town Code could be interpreted to allow for sprinklers to be omitted without the installation of an automatic fire detection system. While a process by which a variance from the more restrictive provisions of the Local Law can be obtained is recommended, such process cannot provide relief from the provisions of the Uniform Code. Since the wording of this provision could be interpreted as allowing variances to the provisions of the

Uniform Code, it is less restrictive than the Uniform Code and its associated regulations. For example, See Section 104.2 of the 2020 BCNYS, which states; *“Nothing in this code or elsewhere in the Uniform Code shall be construed as permitting any building official or any authority having jurisdiction to waive, vary, modify, or otherwise alter any provision or requirement of this code or any other provision or requirement of the Uniform Code. Provisions or requirements of the Uniform Code may be varied or modified only in accordance with procedures established by Part 1205 or by such other regulations as may hereafter be promulgated by the Secretary of State pursuant to Section 381(1)(f) of the Executive Law.”*

- **§74-4(e)(5) of the Town Code appears to be less restrictive than the Uniform Code.**

C. Prevailing Special Conditions (Executive Law §379(1))

The Notice and Petition to the Code Council identified the following special conditions prevailing within the Town that make the more restrictive standards for construction reasonably necessary (see Exhibit C for the complete text).

“In 2000, State Route 332 was widened from two lanes to a four-lane highway to accommodate daily volumes of north/south traffic to and from the nearby Monroe County industrial/commercial sites; and to provide for tourism trips into and out of the Finger Lakes region. The major widening of this highway divided the community's residential neighborhoods and created restrictions for east/west traffic movements. While signalized intersection improvements are slowly being made to the east/west travel movements, our Volunteer Fire Fighters responding to fire calls are still dealing with delays entering into the more heavy volumes of north/south traffic movements along State Route 332. Depending upon the time of day, response times from the volunteers' homes to Station #2 can vary by up to ten minutes.”

“The Town of Farmington has, during the past Census reporting period (2011- 2020), experienced some of the fastest growth that occurred within Western and Central New York State. During this past ten-year census period, Ontario County's population increased by 4.2% (the fastest growing county within the nine county Genesee/Finger Lakes Planning Region). The Town of Farmington's population during this period, however, increased by 16.5%. Since the 2020 Census Report, the Town continues to attract new residential, commercial and industrial development... With this increase in population the Town has also seen a large increase in requests for building permits for commercial and industrial business which has added concerns from our volunteer fire departments.”

“While the community continues to experience development in all of its sectors, the number of volunteer fire fighters continues to go in the opposite direction (downward). When these ingredients (stable growth, heavy traffic movements causing slower volunteer response times, out-of-town employment for many of our volunteers and an aging volunteer fire fighting force) are all mixed together it becomes readily apparent that regulations, like the ones being petitioned by the Town, ones that have been proven to reduce incidences of loss of life and structural fire damage occurring at fire scenes, it reflects an important contribution that local governments can only make, not only in the Town but elsewhere in the State.”

The Town states that the fast-growing population and new development have led to traffic delays on volunteer travel to fire stations, increasing fire response times throughout the Town. Additionally, the Town states that the number of volunteers is decreasing, leading to staffing issues for fighting fires. The Town states that requiring automatic sprinkler systems would mitigate the risks posed by the increasing fire response times, reducing both loss of life and property damage.

- **The Code Council must determine if the information provided by the Town substantiates the claim that the higher or more restrictive construction standards imposed by §74-4, as added by the Local Law are reasonably necessary because of special conditions prevailing in the Town.**

D. Conformance to Accepted Engineering and Fire Prevention Practices (Executive Law § 379(2))

The Local Law requires automatic sprinkler systems and addressable fire alarm systems to be compliant with National Fire Prevention Association (NFPA) but does not specify to which NFPA standard(s) this requirement refers. For automatic sprinkler systems, NFPA provides 3 standards (13, 13R, and 13D) which have differing requirements and provide different levels of protection. NFPA 13 is the general automatic sprinkler system standard and is appropriate for use with any structure. However, NFPA 13R is intended only for use in low-rise residential occupancies, while NFPA 13D is only intended for use with one- and two-family dwellings. Since the Local Law does not specify which standard to use, it could be interpreted to allow compliance with NFPA 13R or 13D for structures which are not included in the scope of these standards, and for which the Uniform Code requires the use of NFPA 13.

Additionally, the requirements for fire department connection labels as stated in the Local Law do not meet 2020 FCNYS requirements for such labels. The Local Law does not specify additional labelling to indicate the presence of automatic sprinkler systems, standpipes, and/or fire pump connections.

Based on both issues listed above, this Local Law may be interpreted to conflict with accepted fire prevention and engineering practices.

- **§74-4(d) and (e) do not appear to conform with accepted engineering and fire prevention practices.**

E. Conformance with the Purposes of Article 18 (Executive Law § 379(2))

When it enacted Article 18, the New York State Legislature declared that it shall be the public policy of the State of New York to provide for a minimum level of protection from the hazards of fire in every part of the state; and to provide for the promulgation of a Uniform Code addressing building construction and fire prevention in order to provide a basic minimum level of protection to all people of the state from hazards of fire and inadequate building construction (see Executive Law § 371(2)). By including provisions allowing a local government to enact or adopt more restrictive local standards, it appears that the Legislature recognized that the State-wide Uniform Code needed to be adjusted, and made more restrictive, in a local government where, because of special conditions prevailing within the local government, the minimum standards imposed by the Uniform Code may not be sufficient to provide a sufficient level of protection to people in that local government.

The standards imposed by §74-4(d) and (e) of the Town Code, as amended by the Local Law, contain several provisions which are less restrictive than the Uniform Code. As such, the level of protection provided by the local standards is not higher than the level of protection provided by the Uniform Code.

- **§74-4(d) and (e) of The Town Code does not appear to conform with the purposes of Article 18.**

F. Variance Process

Town Code §74-4(f) of the Local Law includes a process whereby an aggrieved party may request a variance from the construction standards imposed by the Local Law (see exhibit F) by:

“Variance to requirements set forth above in §74-4.D. shall follow the same procedures outline in Chapter §165-98 Variance and appeals procedures. The variance can only be for the standards of construction as set forth in §74-4(d) and at no time can the variance be granted pursuant to such process that would reduce any requirement below the level established by the State Uniform Code.”

The Local Law contains provisions for variances allow the Town Board of Appeals to grant variances for denials based on the Town code. All variances by the Town Board of Appeals are limited to the Town Code only – the Board cannot provide variances for any provisions of the Uniform Code. In no event shall the Town assume jurisdiction over nor interpret or modify any provision of the Uniform Code.

- **§74-4(f) provides a variance process from the construction standards imposed by the Local Law.**

APPENDIX A SUBMITTED DOCUMENTS

The following documents were received by the Division of Building Standards and Codes:

1. Notice and Petition Relating to More Restrictive Construction Standards (Uniform Code – Executive Law § 379)
2. Exhibit A - Local law filing
3. Exhibit B - Petition for Determination
4. Exhibit C - Special Conditions
5. Exhibit D - Conformance with Accepted Practices
6. Exhibit E - Conformance with Purposes of Article 18
7. Exhibit F – Variance Process
8. Exhibit G – Minutes of Public Hearing/Board of Trustees Meeting held on April 11, 2022

APPENDIX B

EXECUTIVE LAW §379

§379. Incorporation of higher standards by council upon recommendation of local government; local building regulations.

1. Except in the case of factory manufactured homes, intended for use as one- or two-family dwelling units or multiple dwellings of not more than two stories in height, the legislative body of any local government may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of such local government than are applicable generally to such local government in the Uniform Code. Within thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and shall petition the council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the Uniform Code. Such local laws or ordinances shall take full force and effect upon an affirmative determination by the council as provided herein.

2. If the council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within the local government and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards, in whole or part. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.

3. Nothing in this article shall be construed to prohibit any municipality from adopting or enacting any building regulations relating to any matter as to which the uniform fire prevention and building code does not provide, but no municipality shall have the power to supersede, void, repeal or make more or less restrictive any provisions of this article or of rules or regulations made pursuant hereto.

4. Within one hundred twenty days after the effective date of the Uniform Code, a local government may by resolution duly enacted petition the council for a determination as to whether an existing building and/or fire code in force in said local government is more stringent than the Uniform Code. During the period in which the council is considering such petition such local code shall remain in full force and effect. If, after review, the council determines that such local code is less stringent than the Uniform Code the council shall notify the chief executive officer or, if there be none, the chairman of the legislative body of such local government and the Uniform Code shall, thirty days after the date of notification, apply in such local government. If the council finds that such local code is not less stringent than the Uniform Code such local code shall continue in full force and effect until the council, upon its own initiative, reviews such local code and determines that it is no longer more stringent, whereupon the council shall notify the chief executive officer or chairman of the legislative body of such local government and thirty days after the date of notification the Uniform Code shall apply in such local government.

5. Notwithstanding the provisions of subdivision one of this section, the legislative body of Nassau county may have duly enacted or adopted or may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of the county than are applicable generally to the county in the Uniform Code. The chief executive officer, or if there be none, the chairman of the legislative body of the county, shall notify the council, and shall petition the council for a determination of whether such preexisting local laws or ordinances, or within thirty days of such enactment or adoption of such local laws or ordinances, are more stringent than the standards for construction applicable generally to such county in the Uniform Code. During the period in which the council is considering such petition, such local laws or ordinances shall remain in full force and effect.